

Alfred C. Smith  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Scott Taylor</b>	)	<b>CONSENT AGREEMENT</b>
<b>d/b/a Scotty's Potty</b>	)	
<b>Wolf Point, Montana,</b>	)	<b>Docket No. CWA-08-2002-25</b>
	)	
	)	
<b>Respondent.</b>	)	
_____	)	

Complainant, United States Environmental Protection Agency ("EPA"), Region 8, and Respondent, Scott Taylor d/b/a Scotty's Potty, by their undersigned representatives, hereby consent and agree as follows:

1. On August 14, 2002, Complainant issued an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") alleging certain violations of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and Findings of Violation and Administrative Order for Compliance ("Compliance Order"). The Complaint proposed a civil penalty for the violations alleged therein and the Compliance Order directed Respondent to take certain action to comply with the requirements of the Clean Water Act and the regulations promulgated thereunder.
2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.
3. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint.

4. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns.

This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Respondent consents and agrees to pay a civil penalty in the amount of THREE THOUSAND SEVEN HUNDRED SEVENTY SIX AND 32/100 DOLLARS (\$3,776.32) in accordance with the following payment schedule:

<u>INSTALLMENT NUMBER</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
First Installment	\$314.70	July 1, 2003
Second Installment	\$314.70	October 1, 2003
Third Installment	\$314.70	January 1, 2004
Fourth Installment	\$314.70	April 1, 2004
Fifth Installment	\$314.70	July 1, 2004
Sixth Installment	\$314.70	October 1, 2004
Seventh Installment	\$314.70	January 1, 2005
Eighth Installment	\$314.70	April 1, 2005
Ninth Installment	\$314.70	July 1, 2005
Tenth Installment	\$314.70	October 1, 2005
Eleventh Installment	\$314.70	January 1, 2006
Twelfth Installment	\$314.62	April 1, 2006

All payments shall be made by remitting a cashier's or certified check for the installment amount, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

Mellon Bank  
P.O. Box 360859  
Pittsburgh, PA. 15251-6859

Any payment made via overnight delivery shall be sent to:

U.S. EPA, 360859  
Mellon Bank  
Client Service Center, Room 154-0670  
500 Ross Street  
Pittsburgh, PA 15262-0001

A copy of the check and any enclosed documentation shall be sent simultaneously to:

Gwen Jacobs  
Environmental Specialist  
U.S. EPA Region 8, Montana Office  
Federal Building  
10 W. 15<sup>th</sup> Street, Suite 3200  
Helena, MT 59626

and

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA Region 8  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

6. A payment is considered late if it is not received by Mellon Bank on the stated due date. Payments must be received by 11:00 a.m. EST to be considered as received that day.

7. In the event payment is not received by the specified due date, an additional amount of interest shall accrue from the payment due date at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until the payment is received in full.

8. In addition to the accrual of interest specified in Paragraph 7 of this Consent Agreement, a handling charge of FIFTEEN DOLLARS (\$15.00) shall be assessed the 61<sup>st</sup> day from the date a penalty installment is due, and each subsequent 30-day period that the penalty

installment, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if any penalty installment payment is not received within 90 days of the due date. Payments are first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.

9. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

10. Respondent further agrees and consents that if Respondent fails to pay any of the installments by the due dates specified in Paragraph 5 of this Consent Agreement, at Complainant's discretion the full penalty amount proposed in the Complaint shall become due and owing by Respondent.

11. In addition, the Compliance Order that was issued simultaneously with the Complaint shall remain in full force and effect and Respondent's obligation to comply therewith shall continue unabated.

12. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Clean Water Act and its implementing regulations.

13. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

14. Nothing in this Consent Agreement shall be construed as a waiver by EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any

collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.

15. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

16. Each party shall bear its own costs and attorneys fees in connection with this matter.

17. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Scott Taylor, d/b/a Scotty's Potty,  
Docket No. CWA-08-2002-25

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,

Complainant.

Date: 4/1/03

By: **Michael T. Risner**

Michael T. Risner

Director

David J. Janik

Supervisory Enforcement Attorney

Legal Enforcement Program

Date: 4/4/03

By: **SIGNED**

John F. Wardell

Director

Montana Operations Office

In the Matter of Scott Taylor, d/b/a Scotty's Potty,  
Docket No. CWA-08-2002-25

SCOTT TAYLOR, D/B/A SCOTTY'S POTTY,  
Respondent.

Date: 3-26-03 By: SIGNED  
Scott Taylor

Date: 3/24/03 By: SIGNED  
Terrance L. Toavs, Esq.  
223 Main Street  
Wolf Point, MT 59201  
Counsel for Scott Taylor

In the Matter of Scott Taylor, d/b/a Scotty's Potty,  
Docket No. CWA-08-2002-25

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **SCOTT TAYLOR d/b/a SCOTTY'S POTTY, DOCKET NO.: CWA-08-2002-25** was filed with the Regional Hearing Clerk on April 10, 2003.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Sheldon Muller, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Terrance L. Toavs, Esq.  
Law Office of Terrance L. Toavs  
223 Main Street  
Wolf Point, MT 59201

and pouch mailed to :

Honorable William Moran  
Administrative Law Judge  
U. S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

April 10, 2003

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON APRIL 10, 2003**